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No. 92-773

In The

Supreme Court of the United States

October Term, 1993

GEORGE K. PRICE, HARRY L. SCHUMAN and SHARON ROSEN,

Petitioners,

v.

FCC NATIONAL BANK,

Respondent.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Seventh Circuit

REPLY BRIEF

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REPLY BRIEF

The assertion of FCC National Bank ("FCC") that the purpose of its deception is to protect prompt-paying card holders from themselves (Brief in Opposition at p. 2) is patently disingenuous. By instructing card holders, for example, to "mail payment by . . . " *and* disclosing the correct payment due date as required by the Truth in Lending Act, as many creditors do, FCC could truly benefit its card holders. That it has fought so hard to avoid doing so clearly indicates who receives the benefit of the current policy.

FCC is also incorrect when it asserts, without any factual basis in the record, that its deceptive practice "is

the industry standard, and has been, with the approval of the [Federal Reserve] Board, since at least 1971" (Brief in Opposition at p. 6). FCC relies upon a May 10, 1971 Federal Reserve Board (the "Board") staff interpretive letter to support that argument. However, the content of that letter was neither reviewed nor approved by the Board itself. Moreover, in 1982, the Board explicitly repealed all staff interpretations, including the 1971 letter upon which defendant relies. Amendments to Regulation Z, 46 Fed.Reg. 20,892 (1981).

FCC argues that this Court should deny certiorari because FCC has adopted the best available practice in conformity with the law to meet what it asserts is the difficult problem of card holders who intend to pay their bills on time, but whose payments inadvertently arrive late. FCC is wrong; its deceptive practice is neither the best available nor is it permitted by the Truth in Lending Act (the "Act").

Respectfully submitted,

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